

July 11, 2006

Dear Treasury Offset Coordinator:

Enclosed is an "Addendum to the Agreement Pursuant to Section 428(b) of the Higher Education Act of 1965, as amended, with a State or Private Non-profit Institution or Organization for Coverage of its Student Loan Insurance Program Under the Interest Benefits Provisions of Section 428(a) of the Act." By signing this Addendum, your agency has agreed to participate in the 2006-2007 Treasury Offset Program (TOP).

As previously advised, the certification/recertification process will be conducted in November 2006, in the same general timeframe as last year. This means that the accounts your agency certifies/recertifies in November 2006 may be offset beginning in December 2006. For purposes of this agreement, the 2007 processing year will include the cycles in December 2006 as well as the cycles in 2007.

**Prior to sending your first pre-offset notice (TOP 65-day notice), please have the Addendum signed and dated, and return it to:**

Federal Student Aid  
Borrower Services - Collections Management  
ATTN: Sandra McCullough  
830 First Street, NE  
Fourth Floor, Room 041A1  
Washington, D. C. 20002-5320

**IMPORTANT NOTE:** Unless specifically noted otherwise, all correspondence should go to the foregoing address. Please send the Addendum via private or overnight delivery service to this address. Unfortunately, our mail is still being "irradiated" by the Post Office, which often means that the mail contents are brittle and crumble when handled. I am sorry for any inconvenience this may cause.

All TOP 65-day notices to borrowers, consisting of the Notice of Proposed Treasury Offset of Federal Income Tax Refund and Other Federal and/or State Payments (Attachment A), Request for Review form (Attachment B **or** E), and Loan Statement (Attachment C **or** D), must be mailed no later than August 18, 2006. As indicated in Adele Gabrielli's E-mail message to all TOP Coordinators, dated June 23, 2006, **there are changes to the language in the Notice of Proposed Treasury Offset of Federal Income Tax Refund and Other Federal and/or State Payments; the Request for Review form, and the Loan Statements.** Most of the changes are due to the fact that the Department of the Treasury (Treasury) will begin to offset State payments.

As you know, the language was changed in the TOP 65-day notices in 1997 (in connection with the 1998 processing year certification), to reflect that the accounts submitted for certification for 1998 are permanently certified. This means that your agency does not have to send another TOP 65-day notice each year (unless there is a new debt); however, your agency must include (re-certify) the account on its certification tape each year in order to continue the certification of that debt. Therefore, you may recertify a borrower who is currently certified in the TOP for the 2006 processing year, without sending a new TOP 65-day notice, for the 2007 processing year only if the borrower has been continuously certified or re-certified by your agency for each year since the 1997 TOP 65-day notice that explained permanent certification.

Thus, the borrower may be **re-certified**, without sending a new TOP 65-day notice, for 2007 if the borrower was sent a TOP 65-day notice from your agency in 2005, and the account was certified for the 2006 processing year. This also means, for example, that a borrower can be re-certified for 2007 if the borrower was sent a TOP 65-day notice from your agency in 1997, and the account was certified for the 1998 processing year and re-certified for the 1999, 2000, 2001, 2002, 2003, 2004, 2005, **and** 2006 processing years.

As you can see, beginning with the notices sent in 1997, guaranty agencies do not have to send a new TOP 65-day notice to a currently certified borrower in order to continue that certification in effect for the coming year, unless there is a new debt\*, as long as the account has been continuously certified each year since the first TOP 65-day notice sent in 1997 or later.

\*See Page 3, Section 2.1.4 of the Appendix relative to Instructions for Including a New (Additional) Loan(s) to an Account that is Currently Certified in the 2006 Processing Year

Therefore, if your agency certified an account for the 2005 processing year but did not certify the account for the 2006 processing year (account did not appear on your certification/recertification tape submitted to the Department of Education (Department) in November 2005 or, if the account appeared on your certification/recertification tape submitted in November 2005, it was rejected as unprocessable), and you would like to certify the account for the 2007 processing year, you must send a new TOP 65-day notice to the borrower. If a new TOP 65-day notice is sent, then all the eligibility requirements, indicated in the enclosed Appendix I (e.g., there has not been a voluntary payment in the last 60 days, all timely requests for an administrative review have been completed, etc.) must be met for all debts in order for your agency to certify the account for the 2007 processing year.

Please note that the last paragraph of the Notice of Proposed Treasury Offset contains special instructions for borrowers who are Federal employees. This paragraph instructs a borrower, who is a Federal employee, to identify himself/herself on the Request for Review form as a Federal employee. Borrowers who are Federal employees are subject to salary offset under the Treasury Offset Program, and the Department must provide them with special hearing rights.

### Page 3

Accordingly, if your agency receives a completed Request for Review form wherein the borrower identifies himself or herself as a Federal employee, your agency must not certify the account. Instead, your agency must assign the account to the Department.

Your agency may reactivate an account, via a Weekly Update tape, without sending a new TOP 65-day notice, as described in **Section 3.3. Post-certification Determinations of Legal Enforceability, as long as the reactivation is within six months of the inactivation within a given processing year.** The reason that this reactivation must be within a given processing year is because the Department and/or Treasury inactivates all accounts at the end of each processing year. The Department did so last year as a reconciliation process and will do so later this year as well.

Since the Department will inactivate all accounts that are currently certified later this year, the only accounts that will be certified/recertified for the 2007 processing year are the accounts that are included on your agency's certification/recertification tape submitted to the Department in November 2006, for the amount that is indicated in each record. This is considered a reconciliation process because if your agency submitted records on its Weekly Update tape that were unprocessable by either the Department or Treasury, the account would not have been appropriately increased, decreased, inactivated, or reactivated at Treasury.

For example, your records may indicate that an account was inactivated on March 1, 2006, because your agency made a preliminary determination that a borrower was eligible for a Total and Permanent Disability discharge and had submitted an inactivation record on your Weekly Update tape. However, Treasury's records would reflect that the account is active and subject to offset if the inactivation record was unprocessable by either the Department or Treasury. Inactivating all accounts later this year and starting "fresh" ensures that this borrower will not get offset in the 2007 processing year (as long as your agency, of course, does not submit the account for certification/recertification in November 2006).

This means that the certification/recertification tape your agency submits in November 2006 must contain all accounts eligible for certification for the 2007 processing year, including the accounts that are currently certified for the 2006 processing year.

To be eligible for certification processing, accounts must also have been submitted in the Pre-Offset Address Request process. As indicated in previous guidance to guaranty agencies, all Pre-Offset Address Request tapes were to be delivered to Computer Sciences Corporation in Meriden, CT, by May 12, 2006.

This is a reminder that the addresses obtained from pre-offset processing may only be used for the purpose of mailing TOP 65-day notices to borrowers. Your agency may not use these addresses for any other debt collection purpose. This means these addresses may not be displayed in your subsystem or on your system screens or used to send letters/bills. These

**Page 4**

addresses, however, may also be used to furnish Type 2 Address Records in the Certification/Recertification and Weekly Update processes and in response to the Missing Address tape from Treasury.

I want to remind you that the amount your agency certifies to Treasury on a borrower's account must consist of the total of principal and interest only. The certified amount cannot include any other fees or costs of any kind.

Your agency should **not** create its certification/recertification tape before November 1, 2006, so that the information is as current as possible. All certification/recertification tapes, in the TOP formats, together with a copy of the Magnetic Tape Transmittal Form and a copy of the certification letter, must be submitted, via the U.S. Postal Service or a private delivery service, so that they are received at Computer Sciences Corporation, between November 6 - 10, 2006, at the following address:

Computer Sciences Corporation  
Attn: FFEL Tape Librarian  
71 Deerfield Lane, 2<sup>nd</sup> Floor  
Meriden, CT 06450

The original Magnetic Tape Transmittal Form and a copy of the certification letter (see Attachment F) must be sent so they are received in Greenville, Texas, by November 10, 2006, at the following address:

U.S. Department of Education  
Guaranty Agency Processing  
P.O. Box 4137  
Greenville, TX 75403-4137

If your agency prefers, it may send the original Magnetic Tape Transmittal Form and a copy of the certification letter, via private delivery service, to the following address:

U.S. Department of Education  
Guaranty Agency Processing  
6201 Interstate 30  
Greenville, TX 75402

**Page 5**

Please send the original certification letter to Sandra McCullough, via private or overnight delivery service, to the address indicated on the first page of this letter.

If you have any questions about the Addendum or Appendix, please contact Sandra McCullough on (202)377-3240 or Adele Gabrielli on (202)377-3299.

Sincerely,

Dwight A. Vigna  
U.S. Department of Education  
Federal Student Aid  
Director, Default Resolution Group  
Acting Director, Direct Loan Servicing

Enclosures

Amendment to Agreement Pursuant to Section 428(b) of the Higher Education Act of 1965, as amended, with a State or Private Non-profit Institution or Organization for Coverage of its Student Loan Insurance Program Under the Interest Benefits Provisions of Section 428(a) of the Act

The \_\_\_\_\_ (the Agency) and the Secretary of Education (the Secretary) hereby agree to further modify the "Agreement Pursuant to Section 428(b) of the Higher Education Act of 1965, as amended, with a State or Private Non-profit Institution or Organization for Coverage of its Student Loan Insurance Program under the Interest Benefits Provisions of Section 428(a) of the Act" (the Basic Agreement), by amending Paragraph 11 to read as follows:

- (11) The Agency shall perform services for the Secretary on certain defaulted student loans in accordance with the attached Appendix I to this agreement.

In witness whereof, this Amendment to the Basic Agreement has been executed by the undersigned as duly authorized representatives of the parties.

\_\_\_\_\_  
Name of Agency

SECRETARY OF EDUCATION

\_\_\_\_\_  
Print Name and Title  
of Agency Official

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date